

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD KADREY, et al.,
Plaintiffs,
v.
META PLATFORMS, INC.,
Defendant.

Case No. 23-cv-03417-VC

**ORDER ON MOTION FOR RELIEF
FROM NONDISPOSITIVE ORDER OF
THE MAGISTRATE JUDGE**

Re: Dkt. No. 397

The motion for relief is denied as to the plaintiffs' request to reopen depositions.

The motion is granted as to the plaintiffs' request for an *in camera* review. The bar for an *in camera* review is relatively low: The plaintiffs only need to present "a factual basis adequate to support a good faith belief by a reasonable person ... that *in camera* review of the materials may reveal evidence to establish the claim that the crime-fraud exception applies." *United States v. Zolin*, 491 U.S. 554, 572 (1989); *see also United States v. Christensen*, 828 F.3d 763, 800 (9th Cir. 2015). The plaintiffs also suggest that the exception applies broadly to conduct that is unlawful but not criminal or fraudulent. *See Lewis v. Delta Airlines, Inc.*, No. 14-cv-1683, 2015 WL 9460124, at *1–4 (D. Nev. Dec. 23, 2015). But even taking a narrower view—that the exception applies only to criminal or fraudulent conduct—*in camera* review is appropriate here. At a minimum, the plaintiffs have shown that the crime-fraud exception could apply to Meta's alleged distribution (by seeding) of copyrighted material, and that *in camera* review might reveal evidence to establish that it does. Review might also reveal evidence that relates to willfulness more generally. *See* 17 U.S.C. § 506(a)(1).

Meta is ordered to submit the documents identified in Exhibit J to the Pritt declaration (as

well as those in Appendix A to the plaintiffs' motion and in Exhibit A to the parties' joint letter brief on the crime-fraud exception submitted to Judge Hixson) for *in camera* review. Meta is ordered to submit these documents to the Court by Friday, February 7 at 5 p.m. Meta should submit two hard copies of each document, as well as a flash drive containing them all. The documents should identify (such as by highlighting) the portions over which Meta is asserting the privilege.

IT IS SO ORDERED.

Dated: February 4, 2025

A handwritten signature in black ink, appearing to read 'Vince', is written over a horizontal line.

VINCE CHHABRIA
United States District Judge